

Cost Savings Analysis - The EOIR Legal Orientation Program
(Updated April 4, 2012)

In the Committee on Appropriations Conference Report of the recently-passed appropriation for the Department of Justice, the conferees indicated that they expect the Executive Office for Immigration Review (EOIR) to “seek alien-specific detention costs and duration of detention data from Immigration and Customs Enforcement (ICE) in order to develop a more accurate estimate of the cost savings to the Federal Government provided by participation in the LOP [Legal Orientation Program].”¹ The Committee then directed EOIR to “submit a report to the Committees on Appropriations providing such data, as well as an estimate of the cost of savings generated by the LOP.”²

To prepare the required report, EOIR sought and received ICE duration of detention data, as well as data collected from the EOIR LOP contractor (the Vera Institute of Justice) for fiscal years 2009-2011. ICE also provided EOIR with information on the average detention costs per person per day for fiscal years 2010 and 2011. EOIR merged data from these two sources with its own court proceeding data and quantified ICE detention days and EOIR court proceeding completion times to study how these may vary for aliens served by the LOP.

Background

Earlier evaluations conducted by EOIR and the Vera Institute of Justice found that aliens served by the LOP (or other similar rights presentation programs) completed their immigration proceedings faster than those who were not served by such programs. EOIR’s 1998 evaluation of its pre-LOP “Rights Presentation” pilot projects found that aliens at the three pilot project detention sites completed their cases 4.2 days sooner than those aliens whose cases were completed at those sites before the start of the pilots.³ EOIR used this figure to estimate that INS (ICE’s predecessor) could potentially avoid over \$8 million in detention costs if the Rights Presentation projects were expanded nationwide. In FY2002 Congress appropriated funds to the Department of Justice for “legal orientation presentations”.⁴

In 2008, the EOIR LOP contractor, the Vera Institute of Justice, conducted a multi-year comprehensive evaluation of the LOP program and found that detained LOP participants had immigration court case processing times that were an average of 13 days shorter than cases for detained persons who were not served by the LOP.⁵ ICE duration of detention data was not available to the Vera Institute of Justice for this evaluation.

Over the past five years, the number of aliens served by the LOP has dramatically increased. The Vera Institute of Justice’s evaluation examined LOP data from 2006, when the program was serving detained aliens in removal proceedings at six ICE detention facilities. In the past two years, the LOP served detained aliens at 25 ICE detention facilities.⁶

¹ H.R. Rep. No. 112-284, at 233 (2011).

² *Id.*

³ See <http://www.justice.gov/eoir/reports/rtspresrpt.pdf>

⁴ H.R. Conf. Rep. No. 107-278, at 79 (2001).

⁵ See <http://www.justice.gov/eoir/reports/LOPEvaluation-final.pdf>

⁶ In FY2011, ICE housed detained aliens in more than 250 local and state facilities: see <http://www.ice.gov/news/library/factsheets/detention-mgmt.htm>.

Methodology

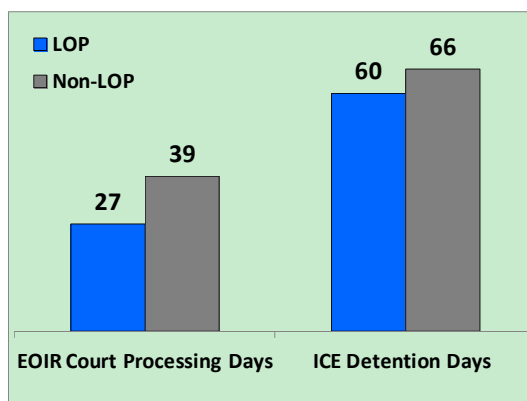
To accurately measure the impact of the LOP on duration of detention, EOIR processed and analyzed immigration court data over a three-year period (FY2009-2011) which were merged with data collected from ICE and the LOP contractor. EOIR then defined three key groups: 1) aliens in ICE detention facilities served by the LOP; 2) aliens in equivalent ICE detention facilities who were not served by the LOP or similar programs; and 3) aliens in ICE detention facilities that should not be included in the first two groups due to their uncomparable circumstances (for example, aliens serving criminal sentences, aliens who were not scheduled for court hearings, and aliens provided the LOP who were later released from custody).

To derive an estimate of the cost of savings generated by the LOP, EOIR used data provided from the U.S. Department of Homeland Security Annual Performance Report, Fiscal Years 2011-2013.⁷ EOIR then applied the average bed cost per day for FY2011 to the difference in number of days in detention between those individuals who participated in the LOP and those in the non-LOP comparison group.

Findings

Consistent with the previous evaluation of the LOP in 2008, detained aliens' participation in the LOP significantly reduced the length of their immigration court proceedings. On average during FY2009-2011 (see below), detained aliens who participated in the LOP completed their detained immigration court proceedings an average of 12 days faster than those who did not participate in the LOP. ICE data showed that these same LOP participants spent an average of six fewer days in ICE detention than the aliens in the comparison group.⁸

Average Number of Court Processing Days and Detention Days for LOP Participants and the Non-LOP Comparison Group, FY2009-2011



⁷ See http://www.dhs.gov/xlibrary/assets/mgmt/cfo_apr_fy2011.pdf, Priority Goal 4 on page 42.

⁸ For FY2011, detained aliens who were provided LOP services on or before the day of their first immigration court hearing, consistent with the way the program is designed to operate, had even fewer court processing and ICE detention days than the comparison group. The 94% of LOP participants who received LOP services on or before their first hearing spent 11 fewer days in ICE detention and completed their immigration proceedings 16 days faster than the non-LOP comparison group.

In FY2011, the average bed cost per day for ICE was \$112.83. Applying the average reduction of six detention days for LOP participants included in this report,⁹ ICE saved on average roughly \$677 in detention costs for each LOP participant. Applying these cost savings to all LOP participants considered in this report, the six fewer detention days on average for detained LOP participants saved ICE more than \$19.9 million. After deducting the cost of providing LOP services for these participants,¹⁰ the provision of LOP services resulted in net savings to the government of more than \$17.8 million.

⁹ For FY2011, 29,440 LOP participants were studied in the report. LOP participants in FY2011 on average spent six fewer days in ICE detention, just as was the case for FY2009-2011.

¹⁰ In FY2011, the approximate per person cost for LOP services was \$70.